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2814

Attorney Docket No. P21161In re application of FRANK SEIDL et al.

Serial No. : 09/899,189

Box Non-Fee
 Group Art Unit : 2814

Filed : July 6, 2001

Examiner : Hoai V. Pham

For : TRENCH CAPACITOR ISOLATION COLLAR AND CORRESPONDING METHOD OF
 PRODUCTION

THE COMMISSIONER OF PATENTS AND TRADEMARKS
 Washington, D.C. 20231

Sir:

Transmitted herewith is a Response to Election/Restriction Requirement with Traverse in the above-captioned application.

- ___ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a verified statement previously filed.
 ___ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.
 ___ An Information Disclosure Statement, PTO Form 1449, and references cited.
☒ No additional fee is required.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 21	*21	0	x 9=	\$	x 18=	\$0.00
Indep. Claims: 6	**6	0	x 42=	\$	x 84=	\$0.00
Multiple Dependent Claims Presented			+140=	\$	+280=	\$0.00
Extension Fees for Month				\$		\$0.00
Total:				\$	Total:	\$0.00

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*If less than 20, write 20

**If less than 3, write 3

___ Please charge my Deposit Account No. 19-0089 in the amount of \$_____.

N/A A Check in the amount of \$_____ to cover the filing/extension fee is included.

☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

☒ Any additional filing fees required under 37 C.F.R. 1.16.

☒ Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 CFR 1.136)(a)(3).

[Signature]
 Bruce H. Bernstein
 Reg. No. 29,027

P21161.A02



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Harald SEIDL et al.

Group Art Unit : 2814

Appln. No. : 09/899,189

Filed : July 6, 2001

For : TRENCH CAPACITOR ISOLATION COLLAR AND
CORRESPONDING METHOD OF PRODUCTION

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**RESPONSE TO ELECTION/RESTRICTION REQUIREMENT
WITH TRAVERSE**

Assistant Commissioner of Patents
Washington, DC 20231

Sir :

In response to the Official Action of April 26, 2002 in which one-month shortened statutory period for response was set to expire on May 28, 2002, Applicants hereby elect Group II (claims 14-21) and Embodiment 1 of figure 1. Claim 14 is readable on Embodiment 1, and claim 14 is also submitted to be generic.

In the above-mentioned election/restriction requirement, the Examiner asserted that the application contains two distinct invention groups, Group I (claims 1-13) drawn to a semiconductor device, and Group II drawn to a method of making a semiconductor device. The Examiner also asserts the application contains ten patentably distinct embodiments. The Examiner further asserts there are no generic claims.

Applicants respectfully request that each of the groups be examined in the instant application, pursuant to the guidelines set forth in M.P.E.P. 803. That is, the Examiner is

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respectfully requested to reconsider his requirement and find that there would not appear to be a "serious burden" on the Office in also examining the claims directed toward the non-elected groups, which would otherwise be withdrawn from the consideration if the restriction requirement is maintained.

In M.P.E.P. Chapter 800, the Office sets forth its policy by which Examiners are guided in requiring restriction under 35 U.S.C.121. In Chapter 803 it is stated that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Applicants respectfully submit, that in spite of the Examiner's restriction, the non-elected claims should be examined in the instant application for the following reasons. It would appear that the search for the inventions identified by the Examiner would be coextensive, or at least significantly overlap. That is, if the Examiner would perform a search for the elected group II comprising claims 14-21, there would not appear to be a serious burden in continuing the examination of the other group, especially since all claims are at least related to a semiconductor memory cell comprising a trench formed in a semiconductor substrate, a first and second conducting capacitor plate located in the trench, a dielectric layer located between the first and second capacitor plates as a capacitor dielectric, and an isolation collar in an upper region of the trench.

Because the search of all of the identified groups would be substantially coextensive, there would be no *serious* burden on the Examiner to examine all the claims

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of the present application. For this reason, and consistent with the office policy as set forth in M.P.E.P. 803, Applicants respectfully request that the Examiner reconsider and withdraw the election requirement.

Applicants also traverse the Examiner's assertion that no claims are generic. Claim 14 is submitted to be generic. A method for producing a trench capacitor for use in a semiconductor memory cell forming a trench in a semiconductor substrate, providing a first and second conducting capacitor plate located in the trench, providing a dielectric layer as a capacitor between the first and second capacitor plates, and forming an isolation collar in an upper region of the trench is clearly illustrated in each of the figures defining embodiments 1-10. Thus, claim 14 is generic.

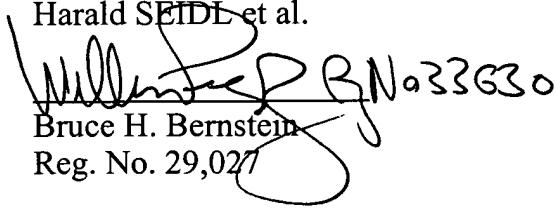
Moreover, the relationships between the disclosed species (in terms of common features) renders an election of species inappropriate.

For the foregoing reasons, the election/restriction requirement in this application is believed to be improper and it is respectfully submitted that it be reconsidered and withdrawn.

Should there be any questions concerning this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

May 28, 2002
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Respectfully submitted,
Harald SEIDL et al.


Bruce H. Bernstein
Reg. No. 29,027